

5/5/86

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated on [REDACTED], in [REDACTED]. Your Charter states that you are organized to give the [REDACTED] children of [REDACTED] and [REDACTED] the "highest quality education possible in the elementary grades, through the security of their own home and through their relationships with loving and caring parents." Your Charter also contains a purpose limitation provision that prohibits you from carrying on any other activities (aside from those specifically enumerated in your Charter) not permitted to be carried on by a corporation exempt under section 501(c)(4) of the Internal Revenue Code. In the event of dissolution, your Charter provides that your assets will be paid over to "organizations organized and operated exclusively for the same purposes as [REDACTED]".

Your income is from a bi-monthly allotment from your President's regular paycheck. Your expenses are for texts, school supplies, film rental, and similar items. You hold classes in the home of your President and Secretary-Treasurer, [REDACTED]. Your students are the [REDACTED] children, ranging in age from [REDACTED] to [REDACTED]. Both [REDACTED] and [REDACTED] provide the instruction.

The curriculum includes a normal range of subjects, but its scheduling is more flexible than would usually be the case, the reason being to allow for the presentation of educational material on a more individual basis, and when the student's interest in the material makes him or her most receptive to learning. Also, you schedule time for household chores, for play, and for visiting the elderly residents of a nearby retirement home. Your program runs from 9AM to 3PM Monday through Friday.

You state that [REDACTED] law prohibits parents from educating children other than their own in their homes. Your home education program is under the general supervision of the Superintendent of Schools, [REDACTED].

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Section 501(c)(3) of the Code provides for the exemption from Federal income Tax of organizations organized and operated exclusively for charitable and educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more purposes specified in that section. If an organization does not meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(4) of the regulations states that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose.

Section 501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it is engaged primarily in activities which accomplish one or more of such purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 69-175, 1969-1 C.B. 149, described an organization formed by parents of pupils attending a private school, that provided school bus transportation for its members' children. It was concluded that the organization did not qualify for exemption under section 501(c)(3) of the Code, as the activity served a private rather than a public interest.

As your purposes are broader than those required by section 1.501(c)(3)-1(a)(1) of the regulations, and as your dissolution provision does not limit the distribution of your assets in the event of dissolution to exclusively exempt purposes, as required by section 1.501(c)(3)-1(a)(4) of the regulations, you do not meet the organizational test for exemption under section 501(c)(3).

The operation of an educational program within the [redacted] home in the manner described, with parents serving as instructors, and the children of those parents being the students, serves the private interests of [redacted], its creators, and their family, in contravention of section 1.501(c)(3)-1(d)(1)(ii) of the regulations. Your operations serve a far more restrictive group than was served in

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Rev. Rul. 69-175, which described an organization created by a group of parents to provide an educational support service for the children of that group of parents.

Also, you are not "operated exclusively" for one or more exempt purposes, as you do not engage primarily in activities which accomplish one or more exempt purposes specified in section 501(c)(3), as required by section 1.501(c)(3)-1(c)(1) of the regulations. Accordingly, you are not entitled to exemption under section 501(c)(3).

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted in duplicate within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(3) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: CP:E:FC:R:4 Room 6138. These symbols do not refer to your case but rather to its location.

cc: [REDACTED]

Sincerely yours,

Code	Initiator	Reviewer	Reviewer	Chief, Exempt Organizations Reviewing Branch	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]				
Date	3/17/86	3-25-86				

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